

FILED

2012 AUG 20 AM 11:45

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIABY W DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

BOBBY JAMES WILLIAMS,

Petitioner,

vs.

BRENDA CASH, Warden,

Respondent.

CASE NO. 11-CV-2234 BEN (WMC)

ORDER:**(1) ADOPTING REPORT AND
RECOMMENDATION,****(2) GRANTING DEFENDANT'S
MOTION TO DISMISS**

[Docket Nos. 7, 9]

Petitioner Bobby James Williams, a state prisoner proceeding *pro se*, filed the instant Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. (Docket No. 1.) Defendant Brenda Cash filed a Motion to Dismiss the Petition on December 8, 2011. (Docket No. 7.) Petitioner did not file an opposition to the Motion to Dismiss.

Magistrate Judge William McCurine issued a thoughtful and thorough Report and Recommendation recommending that Defendant's Motion to Dismiss be granted. (Docket No. 9.) Any objections to the Report and Recommendation were due July 30, 2012. (*Id.*) Neither party filed any objections. For the reasons that follow, the Report and Recommendation is **ADOPTED**.

A district judge "may accept, reject, or modify the recommended disposition" of a magistrate judge on a dispositive matter. FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1). "[T]he district judge must determine de novo any part of the [report and recommendation] that has been properly

1 objected to.” FED. R. CIV. P. 72(b)(3). However, “[t]he statute makes it clear that the district judge
2 must review the magistrate judge’s findings and recommendations de novo *if objection is made*, but
3 not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc)
4 (emphasis in original); *see also Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). “Neither
5 the Constitution nor the statute requires a district judge to review, de novo, findings and
6 recommendations that the parties themselves accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121.

7 In the absence of any objections, the Court fully **ADOPTS** Judge McCurine’s Report and
8 Recommendation. Defendants’ Motion to Dismiss is **GRANTED**. The Clerk of Court shall close the
9 file.

10 **IT IS SO ORDERED.**

11
12 DATED: August 10, 2012


HON. ROGER T. BENITEZ
United States District Judge